

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MICHAEL DEAN PERRY	§	
v.	§	CIVIL ACTION NO. 6:06cv76
CORRECTIONS CORPORATION OF AMERICA, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Michael Dean Perry, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On February 28, 2006, Perry was ordered to pay an initial partial filing fee of \$6.00, pursuant to 28 U.S.C. §1915(b). Perry received a copy of this order on March 3, 2006, but did not comply, nor did he show good cause for his failure to do so. On May 15, 2006, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court.

On May 31, 2006, Perry filed a motion for leave to proceed *in forma pauperis*, but did not include a certified data sheet with this motion. He also filed a copy of objections which he had filed in another lawsuit, styled Perry v. Shaw, docket no. 6:05cv430. These objections do not allude to the Magistrate Judge's Report in the present case, nor the bases upon which dismissal of the lawsuit was recommended.

On June 6, 2006, the Court ordered Perry to furnish a certified trust account data sheet to accompany his May 31 motion for leave to proceed *in forma pauperis*, as required by 28 U.S.C. §1915(a)(2). To date, Perry has not complied with this order, nor has he responded in any way.

Thus, the record of Perry's case shows the following: an order to pay an initial partial filing fee, which was not complied with; an order to furnish a certified inmate trust account data sheet, which was not complied with; and a Report recommending dismissal for failure to prosecute or to obey an order of the Court, to which no objections were filed, but only a copy of objections made in another case, which objections have no bearing on the present matter. It is plain that Perry has failed to prosecute his case.

Even if the application to proceed *in forma pauperis* which Perry submitted on May 31 were to be construed as objections to the Report, such construed objections lack merit because the application was unaccompanied by a data sheet, and the Court's order to furnish a data sheet has not received a response.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original complaint, the Report of the Magistrate Judge, the Plaintiff's response filed May 31, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's response to this Report, even construed as an objection, is without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 20th day of July, 2006.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**